
(2018) 01 JH CK 0082
In the Jharkhand High Court
Case No : 4068 of 2009

Bharti Kumri

APPELLANT

Vs

The State of Jharkhand & Ors.

RESPONDENT

Date of Decision : 09-01-2018

Acts Referred:

Citation : (2018) 01 JH CK 0082

Hon'ble Judges : Amitav K. Gupta

Bench : Single Bench

Advocate : S.K.Murthy

Judgement

1. The grievance of the petitioner is that the arrears of wages of her deceased husband, who had worked as a night guard in the Sub-Divisional

Office, in the department of Public Health Engineering Department, Mechanical Sub-Division at Giridih, has not been paid.

2. Learned counsel for the petitioner has submitted that the husband of the petitioner died in harness in 2005 but the wages from 07.09.1986 to

18.01.2005 has not been paid till date. That earlier the petitioner had preferred W.P(S) NO.827/2006 which was disposed off on 04.05.2006.

Thereafter, again the petitioner had filed W.P(S) NO.3766/2006 which was disposed off with a direction and observation

.....if the authority finds that the petitioner's claim of the arrears of wages or any part thereof is genuine, the amounts payable to the petitioner

must be paid to her within as period of six weeks .

3. It is argued that petitioner's husband was appointed orally on the post of night guard on daily wages by the Junior Engineer,P.H.E.D.,

Mechanical, Giridih. That a letter for making payment to the petitioner's husband

was addressed to the Assistant Engineer, Mechanical, P.H.E.D
vide letter dated 05.10.1986. That the petitioner's husband was paid wages for some years but, subsequently, there was stoppage in payment of the wages. That the Executive Engineer, P.H.E.D., Mechanical Division, Dhanbad vide letter dated 10.04.1990 addressed to the Superintending Engineer, P.H.E.D, Ranchi, had recommended for regularisation of appointment of the petitioner's husband and for payment of wages. That the representation filed by the petitioner was rejected by order dated 28.02.2007, passed by the Superintending Engineer, P.H.E.D, Dumka, by drawing a presumption that the father-in-law of the petitioner who was working as a clerk in the said office at the relevant time had manipulated the documents regarding the employment of the petitioner's husband. It is submitted that such presumption is without any basis because there is no material on record to show that any punitive action was taken against the father-in-law of the petitioner for having committed such misdeeds.

4. Learned counsel on behalf of respondent/State has contended that the writ is not maintainable since the petitioner has sought a direction upon the respondent to pay the wages whereas vide Annexure- 10/1 dated 28.02.2007, prayer for payment of the wages has been rejected by a reasoned and speaking order by the competent authority. The said order has not been impugned or challenged by the petitioner. It is argued that there is no chit of paper or document to establish the claim that the petitioner's husband was appointed on a sanctioned post by any competent authority or salary slip has been issued in favour of the petitioner's husband entitling him for payment of arrears of wages.

5. Heard. It is not disputed that the petitioner had earlier approached this Court and it would be evident from the submission of the learned counsels and the orders passed in the earlier writ petitions that this Court had directed the petitioner to file representation before the competent authority. The competent authority was asked to consider the matter regarding the payment of arrears of wages of petitioner's late husband in accordance with rules and regulations.

6. It is admitted that the petitioner's husband was appointed orally. There is no provision in service law for appointment of any person on oral order. Neither any document has been produced to show that petitioner was

appointed on a sanctioned post nor any office order to the effect has been produced by the petitioner. The competent authority has passed a reasoned and speaking order rejecting the claim of the petitioner which has not been challenged by the petitioner. In the attending facts and circumstances it is held that the petitioner is not entitled to any relief.

7. The writ petition is devoid of merit, accordingly it stands dismissed.